THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 19919 of 2005

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Dated:09.09.2005

Between:

Mohd. Ahsan S/o. Mohd. Anwar
R/o.H.No.16-2-668/3, Nalgonda X Road Malakpet
Hyderabad, and others.

..... PETITIONERS

AND

The Assistant City Planner Circle.No.1,
Municipal Corporation of Hyderabad Sardar Mahal
Charminar Hyderabad, and another.

.....RESPONDENTS

ORDER:

The petitioners claim to be the owners of Premises Nos.16-2-668/3, Flat No.11 in Municipal bearing No.16-2-668/2, Flat No.104 in H.No.16-2-668/2/104 and Flat No.2B, on the second floor of Premises No.16-2-668/2 situated at Nalgonda X Road, Malakpet, Hyderabad and 5th petitioner's shop Nos.116, 117 and 118, City Towner Municipal No. 16-2-669/1, Nalgonda X Road, Malakpet, Hyderabad. The Municipal Corporation of Hyderabad (MCH) proposed to widen the road from the existing width. In the process, the petitioners' land to the extent 114.32 square yards is getting affected. Therefore, the Commissioner of MCH, the second respondent herein, addressed a letter dated 18.08.2005 requesting the petitioners to give their consent in the proforma to hand over advance possession of the affected area in road widening. The petitioners were also informed that they would be paid compensation for the structures that might be affected and they would also be given the other benefits in accordance with G.O.Ms.No.483 MA, Dt.24.05.1998. The petitioners did not give their consent. It is alleged that on 05.09.2005 the first respondent and other officials came to the petitioners' premises and asked to hand over the land. It is also alleged that the officials threatened to demolish the structures. Therefore, the petitioners filed the present writ petition.

Whenever the MCH requires any land for any purpose including for widening the road, it has two options. It can negotiate with the land owner under Section 145 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and take the land for road widening. In case, the owner of the land is not willing to give his/her consent, the MCH is required to take necessary action for acquisition of the land in accordance with the provisions of the Land Acquisition Act, 1894. That is the purport of Section 147 of the Act. Now that the petitioners are not willing to give their consent and hangover possession of the land, the MCH has to proceed in accordance with Section 147 of the Act for acquiring the land. Till then, the petitioners shall not be denied their right to enjoy their property nor MCH can resort to any coercive action for demolishing the structures/taking possession.

The writ petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

09.09.2005

vs